

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 35233

STATE OF IDAHO,)	2009 Unpublished Opinion No. 541
)	
Plaintiff-Respondent,)	Filed: July 22, 2009
)	
v.)	Stephen W. Kenyon, Clerk
)	
CURTIS MICHAEL WITHINGTON,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Timothy Hansen, District Judge.

Order denying I.C.R. 35 motion for reduction of sentence, affirmed.

Molly J. Huskey, State Appellate Public Defender; Heather M. Carlson, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

Before LANSING, Chief Judge, PERRY, Judge
and GRATTON, Judge

PER CURIAM

Curtis Michael Withington pled guilty to felony driving under the influence. I.C. §§ 18-8004, 18-8005. In exchange for his guilty plea, the state dismissed an allegation that Withington was a persistent violator. The district court sentenced Withington to a unified term of seven years, with a minimum period of confinement of two years. Withington filed an I.C.R. 35 motion, which the district court denied. Withington appeals.

A motion for reduction of sentence under I.C.R. 35 is essentially a plea for leniency, addressed to the sound discretion of the court. *State v. Knighton*, 143 Idaho 318, 319, 144 P.3d 23, 24 (2006); *State v. Allbee*, 115 Idaho 845, 846, 771 P.2d 66, 67 (Ct. App. 1989). In presenting a Rule 35 motion, the defendant must show that the sentence is excessive in light of new or additional information subsequently provided to the district court in support of the

motion. *State v. Huffman*, 144 Idaho 201, 203, 159 P.3d 838, 840 (2007). Upon review of the record, including the new information submitted with Withington's Rule 35 motion, we conclude no abuse of discretion has been shown. Therefore, the district court's order denying Withington's Rule 35 motion is affirmed.